

1 David A. Lowe  
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6

7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF WASHINGTON

9 ELF-MAN, LLC,

10 Plaintiff,

11 v.  
12

13 C.G. CHINQUE ALBRIGHT, et al.

14 Defendants.  
15

Civil Action No. 13-cv-00115 TOR

16 SUPPLEMENTAL DECLARATION  
17 OF MICHAEL PATZER IN SUPPORT  
18 OF DEFAULT JUDGMENT  
19

20 I, Michael Patzer, declare as follows:

21 1. I am over the age of 18 and am otherwise competent to make this  
22 declaration. This declaration is based on my personal knowledge and, if called  
23 upon to do so, I will testify that the facts stated herein are true and accurate.

24 2. I work as an independent contractor predominantly for Excipio  
25 GmbH, a German company. I have extensive personal knowledge of Excipio's  
26 business.

3. I personally designed, implemented, monitor and maintain the data  
collection system that Excipio both owns and uses to identify the IP Addresses  
used by people to commit copyright infringement via the BitTorrent Protocol.

1           4.     Excipio contracts with Crystal Bay Corporation (“Crystal Bay”) to  
2 provide Crystal Bay with this data collection system, which is the system that  
3 Crystal Bay uses to detect infringement of Plaintiff’s works. Specifically, Crystal  
4 Bay licenses the use of Excipio’s system and servers.

5           5.     The data collection system used by Crystal Bay has numerous  
6 components. It contains, inter alia: (1) a proprietary BitTorrent Client; (2) servers  
7 running a MySQL database which log verified infringing transactions; (3) packet  
8 analyzers, also known as packet sniffers, which create and analyze PCAPs;  
9 (4) servers that run the proprietary BitTorrent Client and record PCAPs;  
10 (5) WORM (“Write Once Read Many”) tape drives for storing the PCAPs and  
11 MySQL server data; (6) a program to synchronize the servers’ clocks with both a  
12 GPS clock and an atom clock; (7) a proprietary program for checking the MySQL  
13 log files against the contents of the PCAPs.

14           6.     The BitTorrent Client used by Excipio is not commercially available  
15 and its code is a trade secret. It was written to overcome the unique challenges of  
16 entering into a massive number of BitTorrent transactions with a massive number  
17 of people without distributing data.

18           7.     If the servers are not synchronized with both the GPS Clock and atom  
19 clock to within one hundredth of a second the infringing transaction is not logged  
20 but instead disregarded.

21           8.     Every entry on the MySQL server log file correlates to a specific  
22 PCAP. Both the PCAPs and log files are saved onto WORM tape drives. There is  
23 no possibility that the information on these WORM drives can be edited. Further,  
24 each of the WORM tape drives is electronically stamped with a German  
25 government issued time stamp at least every twenty four hours.  
26

1           9. I independently reviewed the PCAPs for the following IP addresses  
2 and confirmed that the PCAPs recorded the IP addresses infringed Plaintiff's  
3 copyright by distributing pieces of data that correlate to Plaintiff's work at the  
4 exact Hit Dates and UTC times specified below:

- 5           • Doe No. 4: 68.119.15.168, 01/15/13 at 11:11:14 PM
- 6           • Doe No. 8: 199.36.95.71, 12/19/12 at 01:57:43 AM
- 7           • Doe. No. 9: 67.237.227.124, 12/15/12 at 11:12:25 AM
- 8           • Doe No. 10: 71.37.130.169, 12/14/12 at 06:33:22 PM
- Doe No. 20: 66.243.237.91, 12/03/12 at 11:36:42 PM
- Doe No. 26: 71.92.104.96, 12/02/12 at 01:10:07 AM

9           The exemplar PCAP file for Doe No. 4 is attached as Exhibit A. The same data is  
10 available for each separate defendant.


11           10. More specifically, the monitoring system received data from a  
12 computer operating behind the noted IP addresses. That data produced a unique  
13 SHA-512 hash (fingerprint) which was compared to the SHA-512 hash  
14 (fingerprint) of a part of Plaintiff's movie. This resulted in a 100% match. This  
15 means that the data distributed by the infringer was from a part of Plaintiff's  
16 movie.

17           11. Our software has not been the subject of any adverse decision with  
18 respect to its accuracy and technical reliability in any jurisdiction in the world. To  
19 the contrary, where presented and challenged, it has been uniformly found to be  
20 accurate and reliable.

21           12. No one, including myself, at Excipio has an ownership in Crystal Bay  
22 or vice versa. I do not have an ownership interest in Excipio. I am not paid for my  
23 testimony and am not entitled to any portion of any money received from a  
24 settlement or judgment in Plaintiff's favor. Plaintiff has never paid Excipio or me  
25 anything. Excipio pays me a fixed amount on a monthly basis.  
26


1 I declare under penalty of perjury under the laws of the United States of  
2 America that the foregoing is true and correct.

3 EXECUTED the 9 day of September, 2014.  
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5   
6 Michael Patzer  
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DECLARATION OF MICHAEL PATZER IN  
SUPPORT OF DEFAULT JUDGMENT - 4  
Civil Action No. 13-cv-00115  
INIP-6-0002P06 DEC\_MP

MP  
LOWE GRAHAM JONES, LLC

  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on September 15, 2014 to all counsel or parties of record who are deemed to have consented to electronic service via the Court's CM/ECF system.

In addition, service has been made on the following defaulted Defendants via U.S. Mail to the last known address:

Mr. Dean Barnett  
Ms. Brenda Barnett  
4051 S. Wenas Rd.  
Selah, WA 98942

Ms. Stephanie Housden  
1206 Millerdale Ave.  
Wenatchee, WA 98801

Mr. Andrew Lint  
43603 E. Red Mountain Rd.  
Benton City, WA 99230

Mr. Carlos Rodriguez  
1415 S. 6<sup>th</sup> St. Apt. F2  
Sunnyside, WA 98944

Mr. Rafael Torres  
4211 W. Prasch Ave.  
Yakima, WA 98908

Ms. Shannon Williams  
5209 E. Oregon Road  
Elk, WA 99009

s/ David A. Lowe